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February 28, 2022

The Honorable Sarah Netburn
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *In re 52 subpoenas*, Case No. 1:22-mc-00036-JGK-SN
In re 25 subpoenas, Case No. 1:21-mc-00376-JGK-SN

Dear Judge Netburn:

Further to the parties' joint letter regarding the briefing schedule for Ukraine's amended motion to quash wave-subpoenas, Ukraine wishes to make separate comments as to jurisdiction.

For the Court's awareness, Tatneft's motion to dismiss Ukraine's pending appeal to the Second Circuit is scheduled to be fully briefed by March 15, 2022. Order, *Ukraine v. PAO Tatneft*, 21-02979 (2d Cir. Feb. 18, 2022), Dkt. 39. If the Second Circuit dismisses the appeal, Ukraine submits that the Court will then have jurisdiction both to reconsider the initial motion to quash and to enter a protective order.

If the Second Circuit denies Tatneft's motion either before or after any action by this Court, Ukraine respectfully submits that there will be a substantial question whether Ukraine's pending appeal divests this Court of subject-matter jurisdiction in Case No. 1:21-mc-00376-JGK-SN. *See* Dkt. 29 at 1; Dkt. 41 at 10. Jurisdiction is a prerequisite for the order's effectiveness, and the effectiveness of the protective order in this proceeding implicates Ukraine's national security. Thus, if the Court chooses to enter a protective order while Ukraine's appeal remains pending, Ukraine respectfully requests that the Court assure itself of its jurisdiction and explain the certainty of its jurisdiction to the parties. *See Scull v. Hennegan*, 2018 WL 5722796, at *1 (W.D.N.Y. Nov. 1, 2018) (evaluating divestiture of subject-matter jurisdiction *sua sponte*).

Respectfully submitted,

/s/ Maria Kostytska

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